

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JUAN T. GONZALEZ, SERGIO GONZALEZ,)
MARIA L. LLAMES, LINO RUBIO, RAFAEL)
CRUZ, NICOLAS PEDRO, FELIPE FLORES,)
and all others similarly situated,)

Plaintiffs,)

vs.)

FARMINGTON FOODS, INC.,)
Defendant.)

Court No. 00 C 8062

Judge Andersen

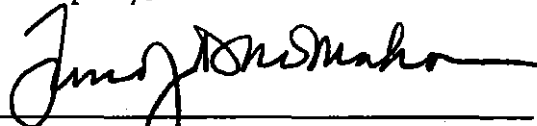
Magistrate Judge Levin

FILED
JUL - 1 2003
MICHAEL W. DOBINS
CLERK, U.S. DISTRICT COURT

NOTICE OF FILING

To: Beth Clukey, Jacobs, Burns, et al., 122 South Michigan Avenue, Suite 1720, Chicago, IL 60603

PLEASE TAKE NOTICE that on the 1st day of July, 2003, I have filed with the United States District Court, Northern District of Illinois, Defendant's Statement of Material Facts, copies of which are attached hereto and herewith served upon you.



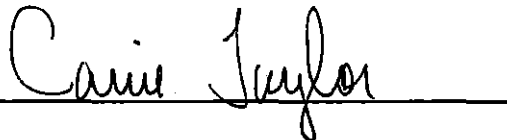
Attorney for Defendant

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(312) 855-1105

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PROOF OF SERVICE

I, Carrie Taylor, a non-attorney, on oath, state that I served this notice by mailing a copy to the aforementioned parties at their respective addresses by depositing same in the U. S. Mail at One North Franklin, Chicago, Illinois, at 5:00 p.m. on this 1st day of July, 2003, with proper postage prepaid.



SUBSCRIBED AND SWORN to before
me this 1st day of July, 2003.



NOTARY PUBLIC

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
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JUAN T. GONZALEZ, SERGIO GONZALES,)
MARIA L. LLAMES, LINO RUBIO, RAFAEL)
CRUZ, NICOLAS PEDRO, FELIPE FLORES, and)
all others similarly situated,)
Plaintiffs,)
vs.)
FARMINGTON FOODS, INC.,)
Defendant.)

CASE NO. 00 -C-8062
MAGISTRATE LEVIN
DEFENDANT FARMINGTON
FOODS, INC.'S STATEMENT
OF MATERIAL FACTS

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

JUL - 1 2003

FILED

II. STATEMENT OF MATERIAL FACTS

Farmington Meat Processing Facility.

The facts of this case are simple and generally undisputed.

1. Farmington owns and operates a meat processing plant within the jurisdiction of this court (Forest Park, Illinois), in which it de-bones, trims and packages pork loins for resale to hotels, restaurants, and grocery stores (LaValle affidavit - See Amended Exhibit # 8 attached).¹
2. Farmington has approximately 140 employees, of which approx. 46 are pork boners and trimmers (individuals who mainly use sharp knives to de-bone and

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¹ Amended Exhibit # 8 included the affidavit of Albert A. LaValle and two collective bargaining agreements between Farmington Foods, Inc. and Local 546100-A.

trim meat) (Ramirez Depo.- See Exhibit # 5 attached to transcript)² (See also Mizaur Depo. at 83)³.

3. This group has been conditionally certified as the "Safety Equipment" Class by the court. (Plaintiff's "Important Notice Regarding Pendency of Class and Collective Action Lawsuit" filed August 2001, Approved in open court August 8, 2001.)
4. The balance of employees, approx. 100 general laborers, weigh, package, and ship pork products. (LaValle Affidavit - See Amended Exhibit # 8 attached)
5. This group has been conditionally certified as the "Laborer Class" by the court. (See Notice and approval in para. 3 above.)
6. The laborers have always been paid on an hourly basis. The pork boners and trimmers were primarily paid on a piece rate basis prior to June 1999, but thereafter are paid on an hourly basis. (LaValle Depo. at 13-14)⁴.
7. Farmington pays its employees in quarter hour increments. That is, the employee's time is rounded to the nearest quarter hour. (LaValle Depo. at 14,16,19-33).
8. At all relevant times, Plaintiffs are or were members of Local 546100-A, United Food and Commercial Workers International Union, AFL-CIO-CLC (formerly Local 100-A, until July 2001) and entered into successive collective bargaining agreements (hereinafter "the Union")(Ramirez Depo. at 11) (See also recent

² All references to deposition testimony herein will be cited to by the deponent's last name followed by the relevant page number. All cited pages to Javier Ramirez, Director of Organizing, Local 546100-A are attached hereto as Ex.1, including exhibits to the deposition transcript.

³ All cited pages from production manager Ron Mizaur's deposition are attached hereto as Ex. 2.

⁴ All cited pages from Director of Finance, Albert A. LaValle, Jr.'s deposition are attached hereto as Ex. 3.

collective bargaining agreements - Exhibit 8)(LaValle affidavit - attached to Amended Exhibit 8).

9. Javier Ramirez, the Union's Director of Organizing, is the primary business agent (Ramirez Depo. at 12).
10. Laborers typically wear only hard hats, frocks (white smocks), plastic aprons and cotton gloves (Venegas Depo. at 33-43)⁵.
11. In addition to these items, boners and trimmers utilize other forms of equipment, including an arm guards, hook, knives, plastic gloves, mesh glove, and belly guard (Gonzalez Depo. 21-29)⁶.
12. Plaintiffs' expert, Jerry Ingalls, conducted several time studies with a stop watch over the course of 3-4 days. He did not do any time studies of laborers, just boners and trimmers. His results for the cumulation of preparatory and concluding activities, including walking time was 14.6 minutes per day. Excluding walking time, his study showed 12.6 minutes per day.(Ingalls Time Study Report)⁷.
13. The expert retained by Farmington, Mr. Albert Swarts, found using a predetermined time system called MODAPTS, that the time for the preparatory and concluding activities, excluding walking time, was 5.921 minutes (Swarts Report, dated May 21, 2001)⁸.

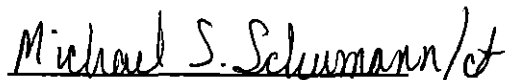
⁵ All cited pages from supervisor, Ismael Venegas's deposition are attached hereto as Ex. 4.

⁶ All cited pages from Plaintiff Juan T. Gonzalez's deposition are attached hereto as Ex. 5.

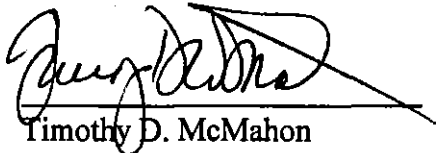
⁷ The time study report of Plaintiffs expert, Jerry Ingalls is attached hereto as Ex. 6.

⁸ The report of Farmington expert, Albert Swarts, is attached hereto as Ex. 7.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael S. Schumann" followed by a stylized flourish.

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A handwritten signature in black ink, appearing to read "Timothy D. McMahon" followed by a stylized flourish.

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Farmington Foods, Inc.

**SEE CASE
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